UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

(CASE NO. 504-CV-103	

CIVIL ACTION NO.: 04-40007-FDS

Eastern District of Texas, Texarkana Division)

MOBILITY ELECTRONICS, INC.,)	
Plaintiff,)	
)	
V.)	
FORMOSA ELECTRONIC INDUSTRIES, INC.)	
Defendant.)	

NON-PARTY FERRIS MARKETING, INC.'S OPPOSITION TO MOBILITY ELECTRONICS, INC.'S APPLICATION FOR AN ORDER COMPELLING THE PRODUCTION OF DOCUMENTS

Non-Party Ferris Marketing, Inc. ("Ferris") hereby opposes Plaintiff Mobility Electronics, Inc.'s ("Mobility") Motion to Compel Production of Documents on the ground that Ferris has produced all non-privileged responsive documents. Moreover, Mobility's request and Motion amount to nothing more than a fishing expedition to purportedly obtain eleventh-hour jurisdictional discovery from a non-party, Ferris, with whom it previously entered into a settlement and release agreement in August, 2004 in connection with this very action, originating in the Eastern District of Texas. In further support of this Opposition, Ferris states:

- 1. The Texas lawsuit was filed by Mobility on May 7, 2004. A copy of the Civil Docket for that lawsuit is attached hereto as Exhibit 1.
- 2. In or about August, 2004, Mobility and Ferris entered into a settlement and release agreement discharging all of the claims asserted in the Texas lawsuit. While the terms of that settlement and release agreement are confidential, Mobility issued a press release, a copy of

which is attached hereto as <u>Exhibit 2</u>, publicly confirming the settlement and the resolution of its case against Worldwide Marketing, Inc. ("Worldwide").

- 3. On September 7, 2004 Mobility and Worldwide entered into a stipulation of dismissal, dismissing all of Mobility's claims against Worldwide with prejudice.¹
- 4. In its frantic efforts to avoid dismissal,² Mobility has chosen to deliberately withhold certain information from the Court, including the fact that it previously settled its claims against both Ferris and Worldwide arising out of the subject matter of the Texas action and that counsel for Ferris has made clear that Ferris is in no way trying to limit Mobility's ability to conduct discovery in connection with this lawsuit, subject to appropriate protections of Ferris' trade secret, confidential and proprietary business information, including by taking Ferris' deposition and/or re-scheduling the deposition upon written questions. A copy of Ferris' counsel's letter dated March 11, 2005 is attached to Mobility's Motion as Exhibit D.
- 5. With respect to the matter presently before the Court, Ferris' counsel agreed to accept service of the Mobility subpoena on or about February 28, 2005, requesting production of documents and scheduling a deposition on written questions at Ferris' offices in Norwood on March 11, 2005.
- 6. Thereafter, Ferris timely objected to the subpoena in accordance with Rule 45 of the Federal Rules of Civil Procedure. A copy of the Ferris' counsel's letter dated March 9, 2005 is attached to Mobility's Motion as Exhibit B.

¹ As Ferris was never a party to this lawsuit a stipulation of dismissal was not entered on the docket with respect to Ferris.

² The docket for the Texas action indicates that Defendant Formosa Electronic Industries, Inc. originally filed a Motion to Dismiss for Lack of Personal Jurisdiction at the inception of that litigation. Therefore, Mobility cannot seriously contend, as it seeks to do in its Motion, that its purported discovery "emergency" is not of its own making.

- 7. As agreed, after Mobility filed the mutually agreeable Protective Order which was accepted by the Court, Ferris produced its non-privileged documents on or about March 24, 2005. A copy of Ferris's counsel's letter dated March 24, 2005, without enclosures, is attached hereto as Exhibit 3.
- 8. When Mobility requested that Ferris make further inquiry concerning its production of documents, Ferris made such inquiry, resulting in the production of additional documents which had previously not been produced.
- 9. Ferris has no additional documents to produce in response to Mobility's subpoena as established by the Affidavit of Russell Enos, the Operations Manager for Ferris, which is filed herewith.
- 10. In each of its discussions with Mobility's counsel, Mobility has repeatedly requested that Ferris produce documents purportedly held by Worldwide as Mobility has apparently not been able to effectuate service of process of a similar subpoena on Worldwide in Hong Kong. As such, upon information and belief, Mobility is pressing Ferris for documents which it knows it does not have in the hope that Ferris will somehow exert pressure on Worldwide to produce documents absent good and effective service. On each occasion, counsel for Ferris has informed counsel for Mobility that its dispute, if any, is with Worldwide and that Mobility must effectuate service of process in Hong Kong.
- 11. Ferris has already produced all responsive, non-privileged materials which it has been able to locate based on a diligent search of its records. It has no duty to and should not be compelled to force independent third-parties to produce materials merely because Mobility has been unable to effect service of process upon them. Such a requirement would impose an unreasonable burden on Ferris, as a non-party. See Katz v. Batavia Marine & Sporting Supplies,

984 F.2d 422, 424-25 (Fed. Cir. 1993) (non-party status may properly be considered by court in evaluating the burdens imposed by discovery under the circumstances.). See also American Standard Inc. v. Pfizer Inc., 828 F.2d 734, 738 (Fed. Cir. 1987); Solarex Corp. v. Arco Solar, Inc., 121 F.R.D. 163, 179 (E.D.N.Y. 1988); aff'd 870 F.2d. 642 (Fed. Cir. 1989); Richards of Rockford, Inc. v. Pacific Gas & Electric Co., 71 F.R.D. 388, 390 (N.D. Cal. 1976).

WHEREFORE Ferris Marketing, Inc. respectfully requests that this Court deny Mobility Electronic, Inc.'s Motion to Compel Production of Documents and grant such other relief as this Court deems just and appropriate.

FERRIS MARKETING, INC. By Its attorneys,

Thomas J. Conte (BBO # 566092) Bowditch & Dewey, LLP

311 Main Street, P.O. Box 15156 Worcester, MA 01615-0156

(508) 926-3415

FAX: (508) 929-3006

Dated: April 13, 2005

CERTIFICATE OF SERVICE

I, Thomas J. Conte, hereby certify that on this 13th day of April 2005, I served a copy of the foregoing by mailing copies of the same, postage prepaid, to the following:

> Robert P. Latham, Esquire Jackson Walker L.L.P. Bank of America Plaza 901 Main Street Suite 6000 Dallas, TX 75202

EXHIBIT 1

JURY, PATENT

U.S. District Court [LIVE] Eastern District of TEXAS LIVE (Texarkana) CIVIL DOCKET FOR CASE #: 5:04-cv-00103-DF

Mobility Electronics Inc v. Formosa Electronic Industries Inc et al Assigned to: Judge David Folsom Cause: 35:271 Patent Infringement

Date Filed: 05/07/2004
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

Mobility Electronics Inc

represented by Robert Parke Latham Jackson Walker - Dallas 901 Main St Suite 6000 Dallas, TX 75202-3797 214/953-6095 Fax: 12149535822 Email: blatham@jw.com LEAD ATTORNEY

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ATTORNEY TO BE NOTICED

V.

Defendant

Formosa Electronic Industries Inc

represented by Allen Rugg

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Filed 04/13/2005

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ATTORNEY TO BE NOTICED

Defendant

Micro Innovations Corp TERMINATED: 09/24/2004

Defendant

SPS Inc
TERMINATED: 08/02/2004

Defendant

Worldwide Marketing LTD TERMINATED: 09/07/2004

Defendant

Sakar International Inc TERMINATED: 09/21/2004

Date Filed		Docket Text
05/07/2004		COMPLAINT against Formosa Electronic Industries Inc, Micro Innovations Corp, SPS Inc (Filing fee \$ 150.), filed by Mobility Electronics Inc.(mpv,) (Entered: 05/11/2004)
05/07/2004		Filing fee: \$ 150.00, receipt number 102352 (mpv,) (Entered: 05/11/2004)
05/07/2004		DEMAND for Trial by Jury by Mobility Electronics Inc. contained in #1 (mpv,) (Entered: 05/11/2004)
05/07/2004	2	CORPORATE DISCLOSURE STATEMENT filed by Mobility Electronics Inc (mpv,) (Entered: 05/11/2004)
05/07/2004		Summons Issued as to Formosa Electronic Industries Inc, Micro Innovations Corp, SPS
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	Inc. (mpv,) (Entered: 05/11/2004)
05/11/2004	Form mailed to Commissioner of Patents and Trademarks. (mpv,) (Entered: 05/11/2004)
05/11/2004	Magistrate Consent Form Mailed to Mobility Electronics Inc (mpv,) (Entered: 05/11/2004)
05/19/2004	4 MOTION for Issuance of Letters Rogatory by Mobility Electronics Inc. (Attachments: ‡ 1 Text of Proposed Order)(mpv,) (Entered: 05/20/2004)
05/21/2004	5 ORDER granting 4 Motion for Issuance of Letters Rogatory . Signed by Judge David Folsom on 5/21/04. (mpv,) (Entered: 05/24/2004)
05/21/2004	6 Letter Rogatory Issued (mpv,) (Entered: 05/24/2004)
06/10/2004	Return of Service Executed via Secretary of State of Texas certified mail as to Micro Innovations Corp on 6/1/2004, answer due: 6/21/2004, (mpv,) (Entered: 06/10/2004)
07/08/2004	MOTION to Stay by Formosa Electronic Industries Inc. (Attachments: # 1 Exhibit A ITC notice# 2 Text of Proposed Order Granting Motion to Stay)(Lewis, Jeffery) (Entered: 07/08/2004)
07/13/2004	MOTION/APPLICATION for Permanent Injunction, MOTION/APPLICATION for Preliminary Injunction, MOTION/APPLICATION for Temporary Restraining Order by Mobility Electronics Inc. Responses due by 7/31/2004 (Attachments: # 1 Exhibit A-C9* # 2 Exhibit C10-E # 3 Text of Proposed Order)(mpv,) (Entered: 07/14/2004)
07/13/2004	AMENDED COMPLAINT against Worldwide Marketing LTD, Sakar International Inc Formosa Electronic Industries Inc, Micro Innovations Corp, SPS Inc Worldwide Marketing LTD answer due 8/2/2004; Sakar International Inc answer due 8/2/2004., filed by Mobility Electronics Inc. (Attachments: # 1 Exhibit A-C # 2 Exhibit D-F) (mpv,) (Entered: 07/14/2004)
07/14/2004	Summons Issued as to Sakar International Inc, Worldwide Marketing LTD. (mpv,) (Entered: 07/14/2004)
07/16/2004	ORDER Setting Hearing on Motion 9 MOTION for Temporary Restraining Order Motion Hearing set for 7/28/2004 10:00 AM in Ctrm 319 (Texarkana) before Judge David Folsom Signed by Judge David Folsom on 7/16/04. (mpv,) (Entered: 07/19/2004)
07/23/2004	RESPONSE to Motion re 8 MOTION to Stay filed by Mobility Electronics Inc. (Attachments: # 1 Text of Proposed Order)(mpv,) (Entered: 07/23/2004)
07/26/2004	13 ***WITHDRAWN PER #51***
	MOTION to Dismiss for Lack of Personal Jurisdiction and Insufficient Service of Process by Formosa Electronic Industries Inc. Responses due by 8/10/2004 (Attachments: # 1 Affidavit Exh. A Declaration of Michael Wu)(Lewis, Jeffery) Modified on 3/21/2005 (mpv,). (Entered: 07/26/2004)
07/29/2004	MOTION/NOTICE to Dismiss party SPS Inc by Mobility Electronics Inc. Responses due by 8/16/2004 (Attachments: # 1 Text of Proposed Order)(mpv,) (Entered: 07/30/2004)
08/02/2004	ORDER granting 14 Motion to Dismiss without prejudice Dft SPS, Inc. Signed by Judge David Folsom on 8/2/04. (mpv,) (Entered: 08/03/2004)

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08/06/2004		AGREED MOTION for Extension of Time to File Response/Reply as to 13 MOTION to Dismiss for Lack of Personal Jurisdiction and Insufficient Service of Process by Mobility Electronics Inc. (Attachments: # 1 Text of Proposed Order)(mpv,) (Entered: 08/06/2004)
08/11/2004		ORDER granting 16 Motion for Extension of Time to File Response/Reply re 13 MOTION to Dismiss for Lack of Personal Jurisdiction and Insufficient Service of Process ORDERED, ADJUDGED AND DECREED that Pla and Dft Formosa's agreed motion for extension of time for Pla to resond to Formosa's motion to dismiss is in all things granted, and Pla shall have to and including 9/10/04, to respond to said motion to dismiss. Responses due by 9/10/2004. Signed by Judge David Folsom on 8/11/04. (mpv,) (Entered: 08/11/2004)
09/01/2004	many desperation of the second	STIPULATION of Dismissal as to Defendant Worldwide Marketing Ltd. by Mobility Electronics Inc. (McWilliams, George) (Entered: 09/01/2004)
09/01/2004	19	*** FILED IN ERROR PLEASE IGNORE*** Proposed Agreed Judgment Order of Dismissal with Prejudice as to Defendant Worldwide Marketing Ltd (McWilliams, George) Modified on 9/2/2004 (mpv,). (Entered: 09/01/2004)
09/07/2004	20	AGREED ORDER of Dismissal with prejudice as to Dft Worldwide Marketing re 18 Stipulation of Dismissal filed by Mobility Electronics Inc. Signed by Judge David Folsom on 9/7/2004. (sm,) (Entered: 09/08/2004)
09/07/2004		Terminated Dft Worldwide Marketing per #20 (sm,) (Entered: 09/08/2004)
09/08/2004		Notified Attorney Stephen Kennedy, Per GO 04-12, this court no longer accepts pleadings in paper form. The Clerk will no longer mail or fax notices or orders to parties. All notices and orders generated by this court shall be sent electronically. (sm,) (Entered: 09/08/2004)
09/20/2004	21	STIPULATION of Dismissal as to Sakar International by Mobility Electronics Inc. (Attachments: #1 Text of Proposed Order Agreed Order Dismissing Sakar Int'l with prejudice)(McWilliams, George) (Entered: 09/20/2004)
09/21/2004	22	AGREED ORDER OF DISMISSAL WITH PREJUDICE AS TO DEFENDANT SAKAR INTERNATIONAL INC, re 21 Stipulation of Dismissal filed by Mobility Electronics Inc, Sakar International Inc terminated. Signed by Judge David Folsom on 9/21/04. (mrm,) (Entered: 09/21/2004)
09/23/2004	23	STIPULATION of Dismissal as to Micro Innovations Corp. by Mobility Electronics Inc. (Attachments: # 1 Text of Proposed Order)(McWilliams, George) (Entered: 09/23/2004)
09/23/2004	24	NOTICE Waiver of Service of Summons by defendant Formosa Electronic Industries, Inc. (McWilliams, George) Modified on 9/23/2004 (sm,). CONTACTED ATTY THAT PLEADING SHOULD NOT BE FILED BY ATTY BUT SENT TO CLERK (Entered: 09/23/2004)
09/23/2004		***FILED IN ERROR. Document # 24, Waiver of Service Cannot be filed but by Clerk due to answer deadline and pleading was not signed by atty filing document. PLEASE IGNORE DOCUMENT.*** (sm,) (Entered: 09/23/2004)
09/24/2004	25	WAIVER OF SERVICE Returned Executed by Mobility Electronics Inc. Formosa
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		Electronic Industries Inc waiver sent on 9/13/2004, answer due 11/12/2004. (sm,) (Entered: 09/24/2004)
09/24/2004	26	
09/30/2004		STIPULATION of Dismissal of Trademark Infringement Claims against Defendant Formosa Electronic Industries by Mobility Electronics Inc. (Attachments: # 1 Text of Proposed Order)(McWilliams, George) (Entered: 09/30/2004)
09/30/2004	28 (1971)	Joint MOTION to Stay Pending Resolution of Related Litigation before International Trade Commission by Mobility Electronics Inc. (Attachments: # 1 Text of Proposed Order)(McWilliams, George) (Entered: 09/30/2004)
10/06/2004	29	ORDER Dismissing Trademark Infringement related claims against Formosa Electronic Industries re 27 Stipulation of Dismissal filed by Mobility Electronics Inc. Signed by Judge David Folsom on 10/3/2004. (sm,) (Entered: 10/07/2004)
10/06/2004	30	ORDER granting 28 Motion to Stay pending resolution of the related litigation currently before the Intl Trade Commission and denying previously filed motion to stay as MOOT. Signed by Judge David Folsom on 10/3/2004. (sm,) (Entered: 10/07/2004)
10/25/2004	31	MOTION Motion to Lift Stay by Mobility Electronics Inc. (Attachments: #1 Exhibit One# 2 Exhibit Two# 3 Text of Proposed Order)(Rommel, Sean) (Entered: 10/25/2004)
11/09/2004	32	RESPONSE in Opposition re 31 MOTION Motion to Lift Stay filed by Formosa Electronic Industries Inc. (Attachments: # 1 Exhibit A# 2 Text of Proposed Order) (Lewis, Jeffery) (Entered: 11/09/2004)
11/16/2004	331	REPLY to Response to Motion re 31 MOTION Motion to Lift Stay filed by Mobility Electronics Inc. (McWilliams, George) (Entered: 11/16/2004)
11/17/2004	34	REPLY to Response to Motion re 31 MOTION Motion to Lift Stay (SUPPLEMENT). (Attachments: #1 Exhibit ITC NO REVIEW NOTICE)(McWilliams, George) (Entered: 11/17/2004)
11/22/2004	61	Return of Service Executed/Letters Rogatory executed in Taipei, Taiwan on 10/19/04. (Given to Judge in error) (mpv,) (Entered: 02/08/2005)
12/13/2004	35	Supplemental MOTION to Stay Certificate of Conference. (McWilliams, George) (Entered: 12/13/2004)
12/13/2004	36	RESPONSE to Motion re 35 Supplemental MOTION to Stay Certificate of Conference to Plaintiff's Motion to Lift Stay filed by Formosa Electronic Industries Inc. (Lewis, Jeffery) (Entered: 12/13/2004)
12/16/2004	37	ORDER TO CONDUCT RULE 26(f) CONFERENCE Rule 26 Meeting Report due by 2/17/2005 Signed by Judge David Folsom on 12/16/04. (mrm,) (Entered: 12/16/2004)
12/17/2004	38	APPLICATION to Appear Pro Hac Vice by Attorney Theodore A Breiner for Formosa Electronic Industries Inc. (rml,) (Entered: 12/20/2004)
12/17/2004		Pro Hac Vice Filing fee paid by Theodore Breiner; Fee: \$25, receipt number: 103712 (rml,) (Entered: 12/20/2004)
12/17/2004	<u>39</u> .	APPLICATION to Appear Pro Hac Vice by Attorney Jennifer A Pulsinelli for Formosa Electronic Industries Inc. (rml,) (Entered: 12/20/2004)

12/17/2004	Pro Hac Vice Filing fee paid by Jennifer Pulsinelli; Fee: \$25, receipt number: 103713 (rml,) (Entered: 12/20/2004)
12/17/2004	APPLICATION to Appear Pro Hac Vice by Attorney Stephen R Smith for Formosa Electronic Industries Inc. (rml,) (Entered: 12/20/2004)
12/17/2004	Pro Hac Vice Filing fee paid by Stephen Smith; Fee: \$25, receipt number: 103714 (rml,) (Entered: 12/20/2004)
12/17/2004	APPLICATION to Appear Pro Hac Vice by Attorney Jorge Almonte for Formosa Electronic Industries Inc. (rml,) (Entered: 12/20/2004)
12/17/2004	Pro Hac Vice Filing fee paid by Jorge Almonte; Fee: \$25, receipt number: 103715 (rml,) (Entered: 12/20/2004)
12/17/2004	42 APPLICATION to Appear Pro Hac Vice by Attorney Allen Rugg for Formosa Electronic Industries Inc. (rml,) (Entered: 12/20/2004)
12/17/2004	Pro Hac Vice Filing fee paid by Allen Rugg; Fee: \$25, receipt number: 103716 (rml,) (Entered: 12/20/2004)
12/17/2004	43 APPLICATION to Appear Pro Hac Vice by Attorney Johnny C Chiu for Formosa Electronic Industries Inc. (rml,) (Entered: 12/20/2004)
12/17/2004	Pro Hac Vice Filing fee paid by Johnny Chiu; Fee: \$25, receipt number: 103717 (rml,) (Entered: 12/20/2004)
01/04/2005	ORDER granting 31 Motion to Lift Stay Upon Termination of International Trade Commisssion Proceeding. Signed by Judge David Folsom on 1/4/05. (mrm,) (Entered: 01/05/2005)
01/05/2005	MOTION for Leave to File Second Amended Complaint Under Seal (Unopposed) by Mobility Electronics Inc. (Attachments: # 1 Text of Proposed Order)(Rommel, Sean) (Entered: 01/05/2005)
01/06/2005	ORDER granting 45 Unopposed Motion for Leave to File Second Amended Complaint Under Seal. Signed by Judge David Folsom on 1/6/05. (mrm,) (Entered: 01/06/2005)
01/06/2005	47 FILED UNDER SEAL SECOND AMENDED COMPLAINT against Formosa Electronic Industries Inc, filed by Mobility Electronics Inc.(sm,) (Entered: 01/06/2005)
01/07/2005	MOTION for Extension of Time to File Responsive Pleading to Plaintiff's Second Amended Complaint by Formosa Electronic Industries Inc. (Attachments: # 1 Text of Proposed Order)(Lewis, Jeffery) (Entered: 01/07/2005)
1/07/2005	MOTION to Withdraw 13 MOTION to Dismiss for Lack of Personal Jurisdiction and Insufficient Service of Process without prejudice by Formosa Electronic Industries Inc. (Attachments: # 1 Text of Proposed Order)(Lewis, Jeffery) (Entered: 01/07/2005)
1/10/2005	ORDER GRANTING DEFENDANT'S UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO FILE A RESPONSIVE PLEADING TO PLAINTIFF'S SECOND AMENDED COMPLAINT granting 48 Motion for Extension of Time to File; IT IS THEREFORE ORDERED ADJUDGED AND DECREED that Dft Formosa Electronic Industries, Inc. shall have until 1/31/05 to file a responsive pleading to Plfs Second Amended Complaint. Signed by Judge David Folsom on 1/10/05. (mrm,) (Entered: 01/10/2005)
01/10/2005	ORDER granting 49 Motion to Withdraw 13 MOTION to Dismiss for Lack of Personal Jurisdiction and Insufficient Service of Process. Signed by Judge David Folsom on

			
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1/10/05. (mrm,) (Entered: 01/10/20	005)		

		1/10/05. (mrm,) (Entered: 01/10/2005)
01/10/2005		NOTICE by Formosa Electronic Industries Inc Designation of Allen Rugg as Attorney-in-Charge (Lewis, Jeffery) (Entered: 01/10/2005)
01/11/2005	53	MOTION for Leave to File App. for Prelim. Injunction under seal and to exceed page limit by Mobility Electronics Inc. (Attachments: #1 Text of Proposed Order)(Rommel, Sean) (Entered: 01/11/2005)
01/12/2005	54	ORDER GRANTING PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO FILE APPLICATION FOR PRELIMINARY INJUNCTION UNDER SEAL AND TO EXCEED PAGE LIMIT granting 53 Motion for Leave to File. Signed by Judge David Folsom on 1/12/05. (mrm,) (Entered: 01/12/2005)
01/13/2005	55	SEALED MOTION for Preliminary Injunction by Mobility Electronics Inc. (mpv,) (Entered: 01/13/2005)
01/19/2005	56	MOTION for Extension of Time to File Response/Reply as to [55] MOTION for Preliminary Injunction by Formosa Electronic Industries Inc. (Attachments: # 1 Text of Proposed Order)(Lewis, Jeffery) (Entered: 01/19/2005)
01/20/2005	2 14 7 14 7 16 7 16 16 16 16 16 16 16 16 16 16 16 16 16	ORDER granting 56 Motion for Extension of Time to File Response/Reply re [55] MOTION for Preliminary Injunction Responses due by 2/22/2005. Signed by Judge David Folsom on 1/20/05. (mrm,) (Entered: 01/20/2005)
01/31/2005	58	MOTION for Leave to File Under Seal Defendant's Motion to Dismiss for Lack of Personal Jurisdiction, or alternatively, To Add a Necessary Party by Formosa Electronic Industries Inc. (Attachments: #1 Text of Proposed Order)(Lewis, Jeffery) (Entered: 01/31/2005)
01/31/2005	A manufacture (1995) 1. A manufacture (1995) 2. A manufacture (1995)	ORDER granting 58 Motion for Leave to File motion under seal. Signed by Judge David Folsom on 1/31/05. (mpv,) (Entered: 02/01/2005)
01/31/2005		SEALED MOTION to Dismiss for Lack of Jurisdiction, or in the alternative MOTION to add a necessary party by Formosa Electronic Industries Inc. Responses due by 2/14/2005 (mpv,) (Entered: 02/01/2005)
02/15/2005		MOTION for Extension of Time to File Response/Reply to Formosa's Motion to Dismiss or Add Necessary Party. (Attachments: # 1 Text of Proposed Order)(Rommel, Sean) (Entered: 02/15/2005)
02/16/2005	TV-T-14. CONTROL CAND CONTROL OF THE	REPORT of Rule 26(f) Planning Meeting. (Attachments: # 1 Exhibit Ex. A- Proposed Agreed Scheduling Order)(Rommel, Sean) (Entered: 02/16/2005)
02/16/2005		ORDER GRANTING UNOPPOSED MOTION FOR EXTENSION OF TIME FOR PLAINTIFF TO RESPOND TO FORMOSA'S MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION, OR ALTERNATIVELY, TO ADD A NECESSARY PARTY; granting 62 Motion for Extension of Time to File Response/Reply re [60] MOTION to Dismiss for Lack of Jurisdiction MOTION to add a necessary party; Responses due by 2/22/2005. Signed by Judge David Folsom on 2/16/05. (mrm,) (Entered: 02/16/2005)
02/18/2005		Second MOTION for Extension of Time to File Response/Reply as to [55] MOTION for Preliminary Injunction by Formosa Electronic Industries Inc. (Attachments: # 1 Text of Proposed Order)(Lewis, Jeffery) (Entered: 02/18/2005)
02/21/2005		Second MOTION for Extension of Time to File Response/Reply to Formosa's Motion to Dismiss by Mobility Electronics Inc. (Attachments: #1 Text of Proposed Order)

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02/22/2005	67	ORDER GRANTING DEFENDANT'S UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO FILE A RESPONSIVE PLEADING TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION; granting 65 Motion for Extension of Time to File Response/Reply re [55] MOTION for Preliminary Injunction Responses due by 2/25/2005. Signed by Judge David Folsom on 2/22/05. (mrm,) (Entered: 02/22/2005)
02/22/2005	<u>68</u>	SCHEDULING ORDER: Final Pretrial Conference set for 11/7/2005 in Ctrm 319 (Texarkana) before Judge David Folsom. Amended Pleadings due by 8/9/2005. Discovery due by 8/9/2005. Joinder of Parties due by 7/8/2005. Jury instructions due by 10/28/2005 Jury Selection set for 11/8/2005 10:00 AM in Ctrm 319 (Texarkana) before Judge David Folsom. Mediation Completion due by 10/14/2005. Proposed Findings of Fact due by 10/28/2005 Proposed Pretrial Order due by 10/28/2005 Signed by Judge David Folsom on 2/22/05. (mrm,) (Entered: 02/23/2005)
02/22/2005	69.	ORDER granting 66 Motion for Extension of Time to File Response/Reply re 13 MOTION to Dismiss for Lack of Personal Jurisdiction and Insufficient Service of Process Responses due by 2/25/2005. Signed by Judge David Folsom on 2/22/05. (mrm.,) (Entered: 02/23/2005)
02/25/2005	70	Third MOTION for Extension of Time to File Response/Reply to Formosa's Motion to Dismiss or Add Necessary Party by Mobility Electronics Inc. (Attachments: # 1 Text of Proposed Order)(Rommel, Sean) (Entered: 02/25/2005)
02/28/2005	71	ORDER granting 70 Motion for Extension of Time to File Response/Reply re [60] MOTION to Dismiss for Lack of Jurisdiction MOTION to add a necessary party Responses due by 4/20/2005 Replies due by 4/25/2005 Signed by Judge David Folsom on 2/28/05. (mpv,) (Entered: 02/28/2005)
02/28/2005	72	Amended MOTION for Extension of Time to File Response/Reply to Motion to Dismiss/for Preliminary Injunction (Amends Doc.#70) by Mobility Electronics Inc. (Attachments: #1 Text of Proposed Order)(Rommel, Sean) (Entered: 02/28/2005)
03/01/2005	73	ORDER GRANTING AMENDED THIRD UNOPPOSED MOTION FOR EXTENSION OF TIME FOR PLAINTIFF TO RESPOND TO FORMOSA'S MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION, OR ALTERNATIVELY, TO ADD A NECESSARY PARTY; granting 72 Motion for Extension of Time to File Response/Reply re [60] MOTION to Dismiss for Lack of Jurisdiction MOTION to add a necessary party, [55] MOTION for Preliminary Injunction; Responses due by 4/20/2005 for Mobility to respond to Formosa's Motion to Dismiss; Responses due by 4/22/05 for Formosa to file response to Mobility's Motion for Preliminary Injunction; Reply due by 4/29/05 for Formosa to file reply to Mobility's response to Motion to Dismiss; Reply due by 5/2/05 for Mobility to file reply to Formosa's response to Motion for Preliminary Injunction; Surreply due by 5/6/05 for Mobility to file surreply regarding Motion to Dismiss; Surreply due by 5/9/05 for Formosa to file surreply regarding Motion for Preliminary Injunction. Signed by Judge David Folsom on 3/1/05. (mrm,) (Entered: 03/01/2005)
03/03/2005	74	Joint MOTION for Protective Order by Plaintiff and Defendant by Mobility Electronics Inc. (Attachments: #1 Text of Proposed Order Agreed Protective Order)(Rommel, Sean) (Entered: 03/03/2005)
03/04/2005	75	MOTION for Issuance of Letters Rogatory to Worldwide Marketing Limited by Mobility Electronics Inc. (Attachments: # 1 Exhibit Ex. A - Latham Affidavit# 2 Exhibit

4/12/2005

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		Ex.B Letter of Request-Worldwide Marketing# 3 Text of Proposed Order)(McWilliams, George) (Entered: 03/04/2005)
03/16/2005	76	PROTECTIVE ORDER. Signed by Judge David Folsom on 3/16/05. (mrm,) (Entered: 03/16/2005)
03/17/2005		ORDER granting 75 Motion for Issuance of Letters Rogatory . Signed by Judge David Folsom on 3/17/2005. (sm,) (Entered: 03/17/2005)
03/17/2005	7.8	Request/Letter of Rogatory for International Judicial Assistance, signed by Judge Folsom, regarding Worldwide Marketing (Central Authority of Hong Kong) ORIGINAL Given to Plaintiff for service (sm,) (Entered: 03/17/2005)
03/18/2005	79	NOTICE by Mobility Electronics Inc of Service of Subpoena on Non-Party Ferris Marketing, Inc. (Attachments: # 1 Exhibit Subpoena to Ferris Marketing, Inc.)(Rommel, Sean) (Entered: 03/18/2005)

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EXHIBIT 2

Filed 04/13/2005

Page 18 of 22

Page 1 of 2

<<Back

MOBILITY ELECTRONICS, INC.

Products Support Where to Buy Technology News About Us

Investor Relations
Corporate Governance
Stock Information
Advanced Fundamentals
Financial Reports
Press Releases
Analyst Coverage
First Call Estimates
SEC Filings
Event Calendar
Investor faqs
Email Alerts
Information Request

Mobility Electronics Reaches Settlement Agreement With Worldwide Marketing

Worldwide Marketing Will Stop Selling Products Alleged by Mobility to Be Patent Infringing; Mobility Will Drop Lawsuit

SCOTTSDALE, Ariz., Sept. 1 /PRNewswire-FirstCall/ -- Mobility Electronics, Inc. (Nasdaq: MOBE), a leading provider of innovative portable computing solutions for the mobile electronics device user, today announced it has reached a settlement with Worldwide Marketing Ltd. Under the terms of the settlement, Worldwide Marketing has agreed to stop selling power products that Mobility Electronics alleges uses its patented technology and, in exchange, Mobility Electronics has agreed to drop Its patent infringement complaints against Worldwide Marketing.

Earlier this year, Mobility Electronics filed a complaint with the United States District Court for the Eastern District of Texas against Worldwide Marketing, claiming that it had engaged in unlawful activities that infringed upon Mobility's patented power technology. Worldwide Marketing disputed the claims.

"We are pleased to have reached a favorable settlement with Worldwide Marketing in this case," said Charlie Mollo, chief executive officer of Mobility Electronics. "Mobility Electronics intends to aggressively pursue all of its intellectual property rights."

Mobility Electronics currently has approximately 125 patents and patents pending in the United States and throughout the world to protect its innovative power adapter technology.

About Mobility Electronics, Inc.

Mobility Electronics, Inc., based in Scottsdale, Arizona, is a rapidly growing developer and marketer of a broad range of innovative solutions for the mobile electronic device market (e.g., mobile phones, portable computers, smartphones, PDAs, digital cameras, etc.). The company's innovative solutions include power adapters, hardware and software products for handheld devices, expansion and docking products for servers, desktop and portable computers and other accessories for the mobile electronic device market.

Mobility Electronics' brands include both the iGo(TM) and MAGMA(TM) product lines. iGo's flagship products include the industry's first combination AC/DC power adapter, Juice(TM), as well as first-to-market handheld software and accessory products such as Quickoffice(TM) and Pitch(TM). The company's MAGMA line of patented expansion products enables the industry's only PCI expansion solutions for servers, desktop and mobile computing users.

Mobility Electronics' products are available to mobile electronic device users directly via the company's online store (www.igo.com) as well as through the company's global distribution base of leading resellers, retailers and OEM partners. For additional information on Mobility Electronics' products and services, call 480-596-0061, or visit its Web site at www.mobilityelectronics.com.

Mobility Electronics, Quickword, and Quicksheet are registered trademarks, and iGo, Juice, Quickoffice Premier, Quickpoint, Pitch, MAGMA, are trademarks of Mobility Electronics, Inc. All other trademarks or registered trademarks are the property of their respective owners.

This release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, including statements relating to our product offerings. These forward-looking statements are based on management's current expectations and beliefs and are subject to risks and uncertainties that could cause actual results to differ materially from those described in the forward-looking statements. In particular, factors that could cause actual results to differ materially from those in the forward-looking statements include the loss of, and failure to replace, any significant customers; the timing and success of new product introductions; the development and introduction of new products by us and our competitors; the performance of suppliers and subcontractors; industry and general economic or business conditions; and other factors detailed in our filings with the

Page 2 of 2

Filed 04/13/2005 Page 19 of 22

Securities and Exchange Commission. Forward-looking statements speak only as of the date made and are not guarantees of future performance. We undertake no obligation to publicly update or revise any forward-looking statements.

SOURCE Mobility Electronics, Inc.

09/01/2004

CONTACT: Tom Rafferty of Metzger Associates, +1-303-786-7000, ext. 2225, tom@metzger.com, for Mobility Electronics; or Julia Kroner of Mobility Electronics, Inc., +1-480-596-0061, ext. 386,

jkroner@mobl.com

Web site: http://www.igo.com

Web site: http://www.mobilityelectronics.com

TOP ^

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EXHIBIT 3

Direct telephone: (508) 926-3415 Direct facsimile: (508) 929-3006 Email: tconte@bowditch.com

March 24, 2005

<u>VIA FEDERAL EXPRESS</u>

John M. Jackson, Esquire Jackson Walker LLP 901 Main Street, Suite 6000 Dallas, TX 75202

Re: <u>Mobility Electronics, Inc. v. Formosa Electronic Industries, Inc.</u>
United States District Court, District of Massachusetts, Central Division;
Civil Action No. 504-CV-103--Eastern District of Texas, Texarkana Division

Dear Mr. Jackson:

I am in receipt of your correspondence dated March 23, 2005. Without addressing each comment in your letter, I disagree with your characterization of our discussions.

In any event, as the Protective Order has now been filed with the Court, subject to and without waiving my client's Rule 45 objections as set forth in my prior correspondence, enclosed please find copies of documents responsive to Mobility Electronics, Inc.'s subpoena directed to Ferris Marketing, Inc. ("Ferris") in connection with the above-referenced lawsuit.

I trust that this fulfills Ferris' obligations under the subpoena and, as such, Ferris does not plan to take any additional action at this time.

Please contact me if you have any questions.

Sincerely,

Thomas J. Conte

TJC/hlb

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.: 04-40007-FDS

(CASE NO. 504-CV-103
Eastern District of Texas, Texarkana Division)

MOBILITY ELECTRONICS, INC.,)
Plaintiff,)
)
ν.)
CODMOGN ELECTRONIC DENIGRATES)
FORMOSA ELECTRONIC INDUSTRIES, INC.	~ (
Defendant.	~ {

AFFIDAVIT OF RUSSELL ENOS

- I, Russell Enos, on oath depose and state as follows:
- 1. 1 am employed at Ferris Marketing, Inc. ("Ferris") and have been so employed since December 27, 2004.
- 2. In addition to my duties as the Operations Manager, I am also responsible for Ferris' business records.
- 3. Upon my receipt of the subpoena from Mobility Electronics, Inc. ("Mobility"), I made a good faith search for all documents in our files responsive to the subpoena. I also contacted all of the persons who might have additional responsive materials to make certain that I had everything.
- 4. In this regard, it is my understanding that Ferris has produced all responsive non-privileged documents to Mobility that we were able to locate in connection with the subpoena.

Signed under the pains and penalties of perjury this ______ day of April, 2005.

FERRIS MARKETING, INC

Russell Enos